

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MITCHELL WHITE,

Petitioner,

Civil No. 04-1418-CO

v.

FINDINGS AND
RECOMMENDATION

JACK CRABTREE,

Respondent.

COONEY, Magistrate Judge.

By Order (#33) entered February 9, 2006, petitioner was allowed 14 days to show cause in writing why respondent's unopposed motion to dismiss should not be allowed. Petitioner was advised that failure to show cause as directed would result in the dismissal of this proceeding. Petitioner has not responded.

Respondent's unopposed motion establishes that petitioner has been released from custody related to the convictions resulting in his incarceration and is not suffering any collateral consequences from the revocation of parole that he challenges in this case. Accordingly, petitioner's claims are moot.

Respondent's Motion to Dismiss (#31) should be allowed. Petitioner's First Amended Petition (#13) should be denied. This proceeding should be dismissed with prejudice.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have ten (10) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have ten (10) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right

to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 4 day of April, 2006.

s/
John P. Cooney
United States Magistrate Judge